

October 26, 2017

Mr. Henry Leskinen
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Elkridge Club
Forest Conservation Variance Request
Tracking #02-17-2580

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on October 5, 2017. If granted, this variance would both allow the removal of three specimen trees and allow the afforestation required by Section 33-6-111 of the Forest Conservation Law to be based on the 10.9-acre Area of Special Exception delineated on the plan accompanying Zoning Case #90-375-X rather than the entire 71.8-acre portion of the property within Baltimore County. The three specimen trees to be removed are all native species in fair to good condition in a lawn setting. The Area of Special Exception is within the center of the property and includes no forest but does include specimen trees.

A similar variance was previously granted on June 14, 2012 to base afforestation on a 0.6-acre limit of disturbance to improve the swimming pool complex, which is within this Area of Special Exception and has been completed. The proposed development activity includes constructing a paddle ball hut immediately adjacent to an existing paddle ball court complex surrounded by the existing golf course and parking lot. A forest conservation plan (FCP) and request to use a forest retention bank in lieu of 1.5 acres of afforestation were also submitted with the variance.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which

the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to make improvements to a golf club that existed prior to the effective date of the Forest Conservation Law. Full application of the law to the entire property would not result in unwarranted hardship to the applicant, given that the paddle ball hut could be alternately located and full compliance would only affect the cost of this and future improvement projects, not preclude them. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. Rather than general conditions in the neighborhood, the petitioner's plight due to unique circumstances associated with the cost of full compliance and presence of the specimen trees immediately adjacent to the paddle ball courts where paddle ball hut would be most practical. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Only 10.9 acres of the 117-acre property (including the portion within Baltimore City) would be disturbed. Furthermore, the proposed and any future club improvements would be consistent with the historic use of the property as a golf course and leisure club. Therefore, we find that granting the requested variance will not alter the essential character of the neighborhood, thus this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that no wetlands or streams would be impacted by any improvements within the Area of Special Exception. Moreover, any development activities would be subject to current Storm Water Management Law. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions on the property necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS or his designee find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of three specimen trees and reducing the afforestation obligation based on the Area of Special Exception, which includes the improvements to an existing

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paddle ball court complex, would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed development activities, and any future development activities within the Area of Special Exception would comply with the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains. Therefore, this criterion has been met.

Based on our review, this Department finds that all required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. 0.1 acre of afforestation was addressed in 2012 under the forest conservation variance for the pool complex. Therefore, the resultant 1.5-acre afforestation requirement for the Area of Special Exception shall be met by purchasing credit at an EPS-approved forest retention bank or paying a \$32,670 fee-in-lieu. A bank authorization letter is enclosed for your use. Prior to issuance of any permits, the fee shall be paid to EPS, or the signed bank letter shall be returned to EPS indicating that retention bank credit has been purchased.
2. The removal of the three specimen trees shall be mitigated by payment of a \$2,965 fee in lieu prior to approval of any Baltimore County permit for this property.
3. This variance approval does not exempt future development activities at this property from complying with Baltimore County's Forest Conservation Law, only afforestation requirements for improvements inside the Area of Special Exception.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owner sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

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If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

David V. Lykens
Deputy Director

Enclosure

c. Ms. Marian Honeczy, Maryland Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with Baltimore County's Forest Conservation Law.

Authorized Club Representative's Signature _____ Date _____

Authorized Club Representative's Printed Name